Rao Bahadur T. K. Nayar (*Prime Minister*): I request that the Bill be referred to a Select Committee consisting of the Mover, the Advocate-General.

Mr. Thomakutty.
„ Dewer.
„ C. R. Iyyunni.
„ S. S. Koder.
„ Kunjuvareed.

Mr. P. Govinda Menon (*Ernakulam*): I pray that Mr. P. Achutha Menon also may be included.

Rao Bahadur T. K. Nayar (*Prime Minister*): Yes.

Mr. President: Who is the Chairman of the Committee?

Rao Bahadur T. K. Nayar (*Prime Minister*): The Prime Minister.

Mr. President: The time.

Rao Bahadur T. K. Nayar (*Prime Minister*): Within two months.

Motion put and carried

(3) The Cochin Co-operative Societies Act (Amendment) Bill

Mr. P. Raman Menon (*Advocate-General*): I move that the Cochin Co-operative Societies Act (Amendment) Bill be read in Council.

Mr. M. Sivarama Menon (*Constitutional Adviser*): I second it.

Mr. P. Raman Menon (*Advocate-General*): The purpose of the Bill is this. There is some doubt as to whether the provisions of section 71 of the Cochin Co-operative Societies Act making Article 166 of the Cochin Limitation Act applicable to proceedings in execution of a decree will apply to cases where recoveries are made by Heads of Departments on a requisition from the Registrar or any person subordinate to him. If the provision of section 166 of the Limitation Act are not applied to such recoveries they will not be steps in aid of execution. It is necessary to clarify the position and provide that the Heads of Departments when making recoveries on requisition by the Registrar shall be deemed to be civil courts for purposes of Article 166 of the Cochin Limitation Act so that such recoveries may have effect as steps in aid of execution.

Motion put and carried

Secretary to the Council:—The title of the Bill is the Cochin Co-operative Socities Act (Amendment) Bill.

Mr. P. Raman Menon (*Advocate-General*): I request that S. O. 32 may be suspended.

Mr. President: S. O. 32 is suspended.

Mr. P. Raman Menon (*Advocate-General*): I move that the Bill be taken into consideration.

Mr. M. Sivarama Menon (*Constitutional Adviser*): I second it.

Motion put and carried

Mr. M. Sivarama Menon (*Constitutional-Adviser*): Before making the motion I wish to invite the attention of the Leader of the Opposition to the point that this is a legislation affecting all the societies in the State, and to know whether you are agreeable for the consideration of the Bill to-morrow.

Mr. P. Govinda Menon (*Ernakulam*): We have no objection Sir.

Mr. P. Raman Menon (*Advocate-General*): I request that the Bill may be taken up and finally passed to-morrow.

Mr. M. Sivarama Menon (*Constitutional Adviser*): I second it.

Motion put and Carried

(4) The Cochin Merchandise Marks Act (Amendment) Bill

Mr. P. Raman Menon (*Advocate General*): I beg to move that the Cochin Merchandise Marks Act (Amendment) Bill be read in Council.

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Mr. M. Sivarama Menon (*Constitutional Adviser*): I second it.

Motion put and carried

Secretary to the Council: The title of the Bill is the Cochin Merchandise Marks Act (Amendment) Bill.

Mr. P. Raman Menon (*Advocate General*): I request that S. O. 32 may be suspended.

Mr. M. Sivarama Menon (*Constitutional-Advisor*): I second it.

Mr. President: S. O. 32 is suspended.

Mr. P. Raman Menon (*Advocate-General*): I request that the Bill be taken into consideration.

Mr. M. Sivarama Menon (*Constitutional Adviser*): I second it.

Motion put and carried

Mr. P. Raman Menon (*Advocate-General*): I move that the Bill may be taken up and finally passed at the next meeting.

Mr. P. Govinda Menon (*Ernakulam*): Will the Hon'ble Member explain the provisions of the Bill at this stage.

Mr. P. Raman Menon (*Advocate-General*): This is an amendment for the purpose of bringing out Act into line with the India enactment, and in this particular case, the real point is for getting the marking with regard to the place of origin of the goods imported. The statement of objects and reasons isquite clear on the point. "The Cochin Merchandise Marks Act, XLI of 1112, is based on the Indian Merchandise Marks Act, IV of 1889. The Indian Act has been amended with a view to make provision for the marking of the country of origin on imported foreign goods as also for tightening the law relating to marking especially in regard to the marking of the name of the manufacturer or the wholesale merchant in the case of cotton piece goods. Opportunity has been taken to bring the definition of "Trade Marks" in this Act and in the Cochin Penal Code into line with the corresponding definition in the Trade Marks Act recently passed. It is necessary to bring the Cochin Merchandise Marks Act into line with the corresponding legislation in force in the Indian Dominion.

Two sections of the Indian Penal Code also have been amended along with this and if this Amendment Bill is passed two sections of the Cochin Penal Code also will stand amended.

I request that the Bill may be taken up and finally passed to-morrow.

Mr. P. Govinda Menon (*Ernakulam*): We have no objection.

Mrs. T. Francis (*Ernakulam-Women*): I object, Sir.

Mr. P. Govinda Menon (*Ernakulam*): I thought it will take only one minute and so I did not object.

റാവു ബഹദൂർ ടി. കെ. നായർ: കുറെ സഹകരിക്കുകയാണു വേണ്ടതെന്നാണു് ഗവണ്മെണ്ടിനുള്ള അപേക്ഷ.

Mr. P. Govinda Menon (*Ernakulam*): That is the reason why I agreed. I did not want to surrender our rights.

മിസ്റ്റിസ്സ് ടി. ഫ്രാൻസ്വിസ്: വളരെ ചുരുങ്ങിയ സമയം മതിയാകുമെന്നു് പ്രൈം മിനിസ്റ്റർ പറഞ്ഞിട്ടുള്ളതുകൊണ്ടു ഞാനും ഇതു സമ്മതിക്കുന്നു.

Motion put and Carried

(5) The Cochin Electricity Duty Bill

Rao Bahadur T. K. Nayar (*Prime-Minister*): I move that the Cochin Electricity Duty Bill be read in the Council.

Mr. M. Sivarama Menon(*Constitutional Adviser*): I second it.

Motion put and carried

Secretary to the Council: The title of the Bill is the Cochin Electricity Duty Bill.

Rao Bahadur T. K. Nayar (*Prime-Minister*): The object of this Bill is to levy an electricity duty with a view to augment the revenues of the State. Such a duty is being levied in other Provinces in India, such as Bengal, Bombay and Madras. According to the present Bill the duty is to be levied on licensees selling elctrical energy. This duty will not be allowed to be

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in aid of execution. It is necessary to clarify the position and provide that the Heads of Departments when making recoveries on requisition by the Registrar shall be deemed to be civil courts for purposes of Article 166 of the Cochin Limitation Act so that such recoveries may have effect as steps in aid of execution. Hence the Bill.

APPENDIX V

THE COCHIN MERCHANDISE MARKS ACT (AMENDMENT) BILL

Whereas it is expedient to amend the law relating to fraudulent marks on merchandise; It is hereby enacted as follows.—

1. *Short title and commencement.*—(1) This Act may be called the Cochin Merchandise Marks (Amendment) Act of 1112 .

(2) It shall come into force at once.

2. *Amendment of Section 2.*—In section 2 of the Cochin Merchandise Marks Act, XLI of 1112 (hereinafter, in sections 3 to 9 inclusive, referred to as the said Act)—

(*a*) for clause (1) the following clauses shall be substituted, namely.—

"(1) 'mark' has the meaning assigned to that expression in clause (*e*) of sub-section (1) of section 2 of the Cochin Trade Marks Act, XIX of 1119;

(1A) 'trade mark' means a 'registered trade mark' as defined in clause (*k*) of sub-section (1) of section 2 of the Cochin Trade Marks Act, XIX of 1119, or a mark used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right as proprietor to use the mark";

(*b*) in sub-clause (*e*) of clause (2), for the words "numeral, word or mark" the word "mark" shall be substituted.

3. *Amendment of section 3.*—In section 3 of the said Act.—

(*a*) in sub-section (1), for the words "numerals, words or marks," in both places where they occur, the word "marks" shall be substituted;

(*b*) in sub-section (2), after clause (*b*) the following word and clause shall be added, namely.—

"and

(*c*) being the name or initials of a fictitious person or of a person not carrying on business in connection with goods of the same description."

4. *Amendment of section 6.*—In section 6 of the said Act.—

(*a*) after the words "things to which a false trade description is applied" the following words shall be inserted, namely.—

"or which, being required by notification under section 9A to have applied to them an indication of the country or place in which they were made or produced, are without the indication required by such notification";

(*b*) in clause (*a*), after the words "trade description" the following words shall be inserted, namely.—

"or that any offence against this section had been committed in respect of the goods".

5. *Insertion of new section 6A.*—After section 6 of the said Act the following section shall be inserted, namely.—

"6A. *Penalty for tampering with, altering or effacing a mark applied in pursuance of section 9A.*—If a person tampers with alters of effaces a mark which has been applied to any goods to which it is required to be applied by notification made under section 9A, he shall, unless he proves that he acted without intent to defraud, be punished with imprisonment for a term which may extend to six months or with fine which may extend to five hundred rupees, and, in the case of a second or subsequent conviction, with imprisonment which may extend to two years, or with fine or with both."

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6. *Amendment of sectin 8.*—In sub-section (1) of section 8 of the said Act, after the words "any goods or things to which a false trade description is applied" the following words shall be inserted, namely.—

"or which, being required by notification under section 9A to have applied to them an indication of the country or place in which they were made or produced, are without the indication required by such notification".

7. *Substitution of new section and heading for section 9.*—For section 9 of the said Act and the heading preceding that section, the following section and heading shall be substituted namely.—

"Stamping of piece-goods, cotton yarn and thread.

9. *Stamping of piece-goods, cotton yarn and thread.*—(1) Piece-goods such as are ordinarily sold by length or by the piece which have been manufactured, bleached, dyed, printed, or finished in premises which are a factory, as defined in the Cochin Factories Act, II of 1113, shall not be removed for sale from the last of such premises in which they underwent any of the said processes without having conspicuously stamped in English numerals on each piece the length thereof in standard yards, or in standard yards and a fraction of such a yard according to the real length of the piece, and, except when the goods are sold from the factory for export from Cochin State, without being conspicuously marked on each piece with the name of the manufacturer, or of the occupier of the premises in which the piece was finally processed or of the wholesale purchaser in India of the piece.

(2) Cotton yarn such as is ordinarily sold in bundles, and cotton thread, namely sewing, darning, crochet or handicraft thread, which have been manufactured, bleached, dyed or finished in any premises not exempted by rules made under section 17 of this Act shall not be removed for sale from those premises unless, in accordance with the said rules, in the case of yarn the bundles are conspicuously marked with an indication of the weight of yarn in each bundle and the count of the yarn contained in the bundle and in the case of thread each unit is conspicuously marked with the lenghth or weight of thread in the unit and in such other manner as may be required by the said rules and, except where the goods are sold from the premises for export from Cochin State, unless each bundle or unit is conspicuously marked with the name of the manufacturer or of the wholesale purchaser in India of the goods:

Provided that the rules made under section 17 shall exempt all premises where the work is done by the members of one family with or without the assistance of not more than ten other employees and all premises controlled by a Co-operative Society where not more than twenty workers are employed in the premises.

(3) If any person removes or attempts to remove or causes or attempts to cause to be removed for sale from such premises or sells or exposes or has in possession for sale any such piece-goods or any such cotton yarn or any such thread which is not marked as required by sub-section (1) and sub-section (2), every such piece and every such bundle of yarn and all such thread, and everything used for the packing thereof, shall be forfeited to Government and such person shall be punished with fine which may extend to one thousand rupees".

8. *Insertion of new heading and section 9 A.*—After section 9 of the said act the following heading and section shall be inserted, namely.—

"Power to require goods to show indication of origin.

9A. *Power to require goods to show indication of origin.*—(1) Government may, by notification in the Cochin Government Gazette, require that goods of any class specified in the notification which are made or produced beyond the limits of Cochin State and imported into Cochin State, or which are made or produced within the limits of Cochin State, shall, from such date as may be appointed by the notification not being less than three months from its issue, have applied to them an indication of the country or place in which they were made or produced.

(2) The notification may specify the manner in which such indication shall be applied that is to say, whether to the goods themselves or in any other manner, and the times or occasion on which the presence of the indication shall be necessary, that is to say whether on importation only, or also at the time of sale, whether by wholesale or retail or both.

(3) No notification under this section shall be issued unless application is made for its issue by persons or associations substantially representing the interests of dealers in or manufacturers, producers, or users of the goods concerned, or unless Government are otherwise convinced that it is necessary in the public interest to issue the notification, nor without such inquiry as Government may consider necessary.

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(4) The provisions of section 21 of the Cochin General Clauses Act, III of 1079, shall apply to the issue of a notification under this section as they apply to the making of a rule or byelaw the making of which is subject to the condition of previous publication.

(5) A notification under this section shall not apply to goods made or produced beyond the limits of Cochin State and imported into Cochin State if in respect of those goods the Chief Customs Officer is satisfied at the time of importation that they are intended for exportation whether after transhipment in or transit through Cochin State or otherwise."

5. *Amendment of section 17.*—In section 17 of the said Act, after sub-section (1) the following sub-section shall be inserted, namely.—

"(1A) Government may make rules providing for the manner in which for the purposes of section 9 cotton yarn and cotton thread shall be marked with the particulars required by that section and for the exemption of certain premises used for the manufacture, bleaching, dyeing or finishing of cotton yarn or cotton thread from the provisions of that section".

10. *Amendment to section 17 of the Cochin Sea Customs Act.*—In section 17 of the Cochin Sea Customs Act, XII of 1109,—

(*a*) in clause (*c*) for the words and figures "the Indian Merchandise Marks Act, 1889" the words and figures "the Cochin Merchandise Marks Act, XLI of 1112" shall be substituted.

(*b*) in clause (*d*),—

(*i*) for the words "the United Kingdom and British India" in both places where they occur, and for the words "the United Kingdom or in BritishIndia", the words "*Cochin State*" shall be substituted.

(*ii*) in sub-clause (ii) for the words "in the same language and character as the name or trade mark" the words "in the English language" shall be substituted.

(*c*) in clause (*e*),—

(*i*) sub-clauses (ii) and (iii) shall be re-numbered as sub-clauses (iii) and (*iv*) respectively and the following shall be inserted as sub-clause (ii), namely.—

"(*ii*) have not been conspicuously marked on each piece with the name of the manufacturer, exporter or wholesale purchaser in India of the piece, and";

(*ii*) in sub-clause (*iv*) so re-numbered for the words "British India" in the two places where they occur, the words "Cochin State" shall be substituted and the words and figures "II of 1113" shall be added at the end.

(*d*) after clause (*f*) the following clauses shall be added, namely.—

"(*g*) goods which are required by a notification under section 9A of the Cochin Merchandise Marks Act, XLI of 1112, to have applied to them an indication of the country or place in which they were made or produced, unless such goods show such indication applied in the manner specified in the notification.

(*h*) cotton yarn such as is ordinarily imported in bundles, if—

(*i*) the bundle containing such yarn has not been conspicuously marked with the name of the manufacturer exporter or wholesale purchaser in India of the goods, or

(*ii*) such bundle has not been conspicuously marked with an indication of the weight and the court of the yarn contained in it, in accordance with the Rules made under section 17 of the Cochin Merchandise Marks Act, XLI of 1112, and

(*iii*) the yarn has been manufactured beyond the limits of India; or

(*iv*) having been manufactured within those limits has been manufactured beyond the limits of Cochin State in premises which if they were in Cochin State, would be a factory as defined in the Cochin Factories Act, II of 1113;

(i) Cotton sewing or darning thread, if—

(*i*) the units in which the thread is supplied have not been conspicuously marked with the name of the manufacturer, exporter or wholesale purchaser in India of the goods, or

(*ii*) if each unit has not been conspicuously marked with an indication of the weight of thread contained in it and the grist number in accordance with the rules made under section 17 of the Cochin Merchandise Marks Act, XLI of 1112, and

(*iii*) the thread has been manufactured beyond the limits of India, or

(*iv*) having been manufactured within those limits, has been manufactured beyond the limits of British India in premises which, if they were in Cochin State, would be a factory as defined in the Cochin Factories Act, II of 1113.

11. *Amendment of section 19 of the Cochin Sea Customs Act.*—In sub-section (3) of section 19 of the Cochin Sea Customs Act, XII of 1109.—

(*a*) for the words "British India" in both places where they occur, the word "India" shall be substituted;

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(*b*) for the words "and in the same language and character" the words "in the English language" shall be substituted.

12. *Amendment of section 458 of the Cochin Penal Code.*—For section 458 of the Cochin Penal Code, the following section shall be substituted, namely.—

"458. For the purposes of this Code,the expression 'trade mark' includes a trade mark registered under the Cochin Trade Marks Act, XIX of 1119, and any mark used in relation to goods for the purpose of indicating or so as to indicate a connection in the course of trade between the goods and some person having the right to use the mark".

13. *Amendment of section 460 of the Cochin Penal Code.*—In section 460 of the Cochin Penal Code, for the words "are the manufacturer or merchandise of a person whose manufacture or merchandise they are not" the following words shall be substituted, namely,—

"have a connection in the course of trade with a person with whom they have not any such connection".

Statement of Objects and Reasons

The Cochin Merchandise Marks Act, XLI of 1112, is based on the Indian Merchandise Marks Act, IV of 1889. The Indian Act has been amended with a view to make provision for the marking of the country of origin on imported foreign goods as also for tightening the law relating to marking especially in regard to the marking of the name of the manufacturer or the wholesale merchant in the case of cotton piece-goods. Opportunity has been taken to bring the definition of "Trade Mark" in this Act and in the Cochin Penal Code into line with the corresponding definition in the Trade Marks Act recently passed. It is necessary to bring the Cochin Merchandise Marks Act into line with the corresponding legislation in force in the Indian Dominion, and hence the Bill.

APPENDIX VI

The Cochin Electricity Duty Bill

Whereas it is expedient to levy a duty on certain sales of electrical energy effected by licensees in the Cochin State; It is hereby enacted as follows.—

1. *Short title, extent and commencement.*—(1) This Act may be called the Cochin Electricity Duty Act, of 112 .

(2) It extends to the whole of Cochin State.

(3) It shall come into force on such date as the Government may, by notification in the Cochin Government Gazette appoint.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context—

(*a*) "Energy" means Electrical energy;

(*b*) "Licensee" means any person including a company or a local authority licensed under Part II of the Cochin Electricity Act, III of 1102 to supply energy, or any person including a company or a local authority who has obtained the sanction of the Government under section 29 of that Act to supply energy; and

(*c*) "Prescribed" means prescribed by rules made under this Act.

3. *Levy of a duty on certain sales of electrical energy.*—(1) Save as otherwise provided in sub-section (2) every licensee in the Cochin State shall pay every month to the Government in the prescribed manner, a duty calculated at the prescribed rate on and in respect of all sales of energy effected by licensee during the previous month, at a price of more than two annas per unit.

(2) A licensee shall be exempt from duty under sub-section (1) in any month if the total sales of energy effected by him at a price of more than two annas per unit in the previous month, did not exceed the prescribed limit,

Provided that if at the end of any financial year, it is found that the total sales of energy effected by the licensee in such year, at a price of more than two annas per unit, were not less than twelve times the prescribed limit, the licensee shall pay the duty in respect of any month

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